

**STATE OF MAINE
SUPREME JUDICIAL COURT**

ADMINISTRATIVE ORDER JB-05-5 (A. 9-11)

**REVISED FEE SCHEDULE FOR GUARDIANS AD LITEM AND COURT
APPOINTED WORKERS' COMPENSATION ATTORNEYS IN ALL COURTS**

Effective: September 19, 2011

This order amends JB-05-5 (A. 8-10), signed July 21, 2010, and effective August 1, 2010.

The following schedules and administrative procedures are adopted in all courts for all court-appointed guardians ad litem (guardians) and workers' compensation attorneys submitting bills on or after the effective date of this order.¹

I. HOME COURT

Each guardian shall inform the Family Division which court or courts that guardian wishes to designate as his/her home court or courts. Absent unusual circumstances, courts shall not appoint a guardian to cases in courts outside of his/her home court(s).

II. RATE

An hourly rate of up to \$50 per hour is authorized for time spent on the appointed case or cases. Guardians/Appointed Counsel shall prorate among the cases any time spent in common with other cases (e.g., travel, waiting, and research time).

III. EXPENSES

- A. Routine expenses are considered to be included in the hourly rate. Routine office expenses (including but not limited to postage, express postage, regular telephone, cell telephone, fax, office overhead, utilities,

¹ The determination of indigency, the assignment and compensation of all other counsel, and all like matters shall be governed by the provisions of Rule 88 of the Maine Rules of Civil Procedure, incorporating by reference Maine Rules of Criminal Procedure 44, 44A, 44B, and 44C.

secretarial services, parking, and office supplies) will not be reimbursed. Itemized nonroutine expenses, such as reasonable long distance calls, relevant in-state mileage, tolls, and fees paid to third parties, shall not exceed actual cost.

Mileage shall not exceed the applicable State rate and shall not be paid for travel to and from the guardian's home court. All out-of-state travel or overnight travel must be approved by the court in writing prior to incurring the expense. Use of the telephone, video equipment, and e-mail in lieu of travel is encouraged as appropriate.

Claims for all such expenses must be itemized.

- B. Other nonroutine expenses for payment to third parties, which have historically required preapproval by the court (e.g., investigators, medical and psychological experts, testing, transcripts, depositions) are still required to be approved in advance. Funds for third-party services and extraordinary expenses will be provided by the court only upon (1) written motion; (2) a sufficient demonstration of reasonableness, relevancy, and need; and (3) a demonstration that the third-party expense or service is not one that is, in the usual course, the responsibility of the State or counsel for one of the parties.
 - 1. It is the responsibility of the guardian to assure that the service provider is given clear instructions as to responsibilities; is made aware that there is a limit on the amount of funds approved by the court; and that the court will not approve payment of any charges in excess of amounts previously approved.
 - 2. The court may set both a maximum fee and an hourly rate for any service provider. Amounts approved by the court are deemed to include reasonable expenses, including but not limited to, office and out-of-pocket expenses, mileage, travel time, preparation of reports, and appearances at court.
 - 3. An arrangement for services is between counsel/guardian and the service provider. The guardian must inform service providers that they are not authorized to act as an agent of the

court nor is any agreement with the guardian to be construed as an appointment by the court or endorsement of services. It is the responsibility of the guardian to assure that the court has approved a motion for funds before any services are engaged. The guardian cannot assume that requests for supplemental funds will be approved.

4. Upon receipt of a statement for services guardians shall forward it to the clerk for processing and payment. The guardian must state whether the services were satisfactory and that all applicable reports and other information have been received. Guardians are not required to advance funds to investigators or other service providers.

IV. MAXIMUM FEES

Vouchers submitted for amounts greater than the applicable maximum fees, as outlined below, will not be approved for payment except as approved the Chief Judge of the District Court or designee.

A. District Court Child Protection

1. Maximum fees, excluding any itemized expenses, for court-appointed guardians in child protective cases, are set in accordance with the following schedule:

Child protective cases (each stage)	\$750
Termination of Parental Rights (with a hearing)	\$1050

2. Child protective cases will include proceedings resulting in a court order as defined below. Each distinct stage in on-going child protective cases shall be considered a new appointment for purposes of the maximum fee. **A separate voucher must be submitted at the end of each stage.**

Vouchers for payment of guardian fees and expenses shall be submitted within ninety days after the completion of a stage of a child protection case resulting in an order. **Vouchers**

submitted more than ninety days after completion of a stage of a child protection case will not be paid.

For purposes of this Order, “each stage” of a trial court child protection case shall be:

- Order after Summary Preliminary Hearing or Agreement
 - Order after Jeopardy Hearing
 - Order after each Judicial Review and/or Permanency Hearing
 - Order after a Cease Reunification Hearing
 - Order after Termination of Parental Rights Hearing
3. Due to budget limitations and in recognition of the role of guardians as governed by statute, guardians will be reimbursed for only those activities required by statute, and as set forth below, except in extraordinary circumstances. The following limits are established relating to guardians.
- (a) A reasonable amount of time spent on the following activities will be compensated *within the above guidelines*:
- review of relevant mental health records and materials;
 - review of relevant medical records;
 - review of relevant school records and other pertinent materials;
 - interviews with the child(ren) with or without other persons present;
 - interviews with parents, foster parents, teachers, caseworkers, and other persons who have been involved in caring for or treating the child;
 - face-to-face contact with the child(ren) at least once every three months;
 - preparation and submission of a guardian report once every six months, or for each court event, whichever is earlier;
 - attendance at all court hearings and conferences;
 - participation in settlement discussions and attendance at settlement conferences;
 - attendance at the following family team meetings:
 - i. to develop the initial Family and Child Plans;
 - ii. before an imminent change in a case goal;

- iii. before an imminent change in placement; and
 - iv. otherwise no more than once every three months;
 - A Pupil Evaluation Team (PET) meeting may be substituted for one of the quarterly Family Team meetings;
 - activities referenced in the Maine Rules for Guardians ad Litem, Appendix A, Rule 3.2 (1)-(13); and
 - other activities specifically ordered by the court in an individual case.
- (b) If guardians anticipate exceeding the maximum fee, they must seek prior court-approval.
- i. In any case in which a guardian submits a voucher up to five hours over the applicable cap, without pre-approval, the guardian may not be paid.
 - ii. Absent extraordinary circumstances, in any case in which the guardian submits a voucher in excess of five hours over the applicable cap, without pre-approval, the guardian will not be paid for any such excess time.
- (c) Even if within the maximum fee for each stage, payment will not be made for the following activities (many of which fall within the duties required of DHHS caseworkers, and for which there may be federal reimbursement available to DHHS) absent specific prior court-approval which will be given in extraordinary circumstances:
- appearances and work in connection with any other related court cases, in excess of two hours;
 - transportation of the child(ren), parties, or others;
 - making arrangements for services for the child(ren) or any party;
 - attendance at appointments for evaluations or services provided to the child(ren) or any party;
 - attendance at PET meetings or other school events, other than the PET substitution set forth above;
 - attendance at the child(ren)'s events, other than as would constitute the required face-to-face contact;
 - attendance at family team meetings in excess of those specified above;

- preparation of the voucher and accompanying documentation; and
- establishing an office file.

B. Law Court

1. Child Protective Cases; *see* 22 M.R.S. §4005.

When the guardian's participation in an appeal has the prior approval of a Justice of the Law Court, the guardian shall submit, with each brief, a detailed statement setting forth the hours expended on each element of the case. The Court will review the statement and make and award a reasonable fee at a rate of \$50 per hour pursuant to 22 M.R.S. § 4005 at the time the decision is rendered. If the guardian fails to file an itemized statement in accordance with this provision, the Court will set a fee of \$450.

2. Workers' Compensation Cases

- (a) For cases in which the date of injury is prior to June 5, 1985, the Court will award a standard fee of \$750 and reasonable out-of-pocket expenses.
- (b) For cases subject to the "prevail rule" which was in effect from June 5, 1985, through December 31, 1992, counsel must file an itemized statement with the Court within twenty days of the final disposition of the appeal.
- (c) For cases arising pursuant to Title 39-A (which became effective on January 1, 1993), the Court will not award any counsel fees.

V. ADMINISTRATION OF PAYMENT IN LAW COURT

Guardian must submit an itemized bill in advance of the Court's conference or Oral Argument on the case, or the Guardian (if authorized to appear in the in the Law Court) will receive \$450.

Workers' Compensation Attorney Vouchers must be submitted within thirty days after final disposition. Vouchers submitted after the thirty-day period will not be paid.

VI. ADMINISTRATION OF PAYMENT IN TRIAL COURTS

- A. All vouchers must be submitted using the current approved voucher form and comply with all instructions on the form.
- B. Vouchers submitted for fees in the amounts of \$500 or less and/or which contain no more than \$75 in expenses may be approved by the clerk, deputy clerk, or clerk's designee at the direction of the Chief Judge. Vouchers for fees in amounts over \$500 and/or which contain more than \$75 in expenses must be approved by the Judge who handled the case and the Chief Judge or designee.
- C. Requests for funds shall be addressed to the court of disposition, however, a guardian may receive payment for fees and expenses related to an appeal to the Law Court only with the prior approval of a Justice of the Law Court.
- D. The court will make every effort to schedule matters involving guardians in such a manner as to limit the number of appearances and waiting time.
- E. All requests for payment of services shall be accompanied by a detailed and itemized statement of services and expenses. Detailed billing shall be accounted for in .10 of an hour increments (for example, .1 = 6 minutes or less, .2 = 6 to 12 minutes). The purpose for each time entry must be self-evident or specifically stated. Copies of receipts for payments to third parties shall be attached. All expenses claimed for reimbursement must be fully itemized on the statement of services submitted with the voucher.
- F. The Chief Justice of the Superior Court and the Chief Judge of the District Court are hereby authorized to establish such procedures as are necessary to carry out the provisions of this Order.

For the Court,

/s/
 Leigh I. Saufley, Chief Justice
 Maine Supreme Judicial Court

Promulgation Date: September 19, 2011

HISTORICAL DERIVATION:

Revised Fee Schedule For Guardians Ad Litem and Court Appointed Workers' Compensation Attorneys In All Courts

AO JB-05-5 (A. 8-10), dated July 21, 2010, effective August 1, 2010

Signed By: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Revised Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 7-08), dated June 27, 2008, effective July 1, 2008

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Revised Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 1-07), dated January 22, 2007, effective January 1, 2007

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 4-06), dated April 13, 2006, effective April 14, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5 (A. 1-06), dated December 19, 2005, effective January 1, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule For Court-Appointed Counsel And Guardians Ad Litem In All Courts

AO JB-05-5, dated June 29, 2005, effective January 1, 2006

Signed by: Leigh I. Saufley, Chief Justice, Maine Supreme Judicial Court

Fee Schedule for Court-Appointed Counsel in All Courts

AO JB-00-01, dated June 5, 2000 (which replaced SJC-226, SJC-318, and SJC-406)

Signed by: Daniel E. Wathen, Chief Justice, Maine Supreme Judicial Court; Andrew M. Mead, Chief Justice, Maine Superior Court; and Michael N. Westcott, Chief Judge, Maine District Court

ADDENDUM TO ADMINISTRATIVE ORDER SJC-226/318/406 Effective: July 1, 2000